

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CODY HART, DERRILL FUSSELL,
KEVIN ERWING, TIMOTHY
GARRISON, STEVEN RINDAL, and
KATHY LAFRENIERE,

Plaintiffs,

v.

SKAGIT COUNTY
COMMISSIONERS, RONALD
WESEN, PETER BROWNING, LISA
JANICKI, COUNTY OF SKAGIT and
RLI INSURANCE COMPANY ,

Defendants.

CASE NO. 23-309 MJP

ORDER STRIKING MOTION FOR
ATTORNEYS FEES

This matter comes before the Court on Defendant, RLI Insurance Company's, Motion for Attorney's Fees. (Dkt. No. 45.) Defendant filed the Motion on August 21, 2023. The original noting date for the motion was September 8, 2023. Plaintiffs did not file a timely response, but did file a response on September 25, 2023, arguing that they were never served pursuant to Fed. R. Civ. P. 5. (Dkt. No. 47.) Following this, Defendant renoted the Motion for October 13, 2023.

1 Upon review of Defendant's certificate of service, it appears Defendant assumed
2 Plaintiffs had signed up for electronic service and that filing the Motion through the CM/ECF
3 system sufficed to serve Plaintiffs. This assumption is incorrect. Under Federal Rule of Civil
4 Procedure 5, a written motion must be served on a party and service may be executed through a
5 number of means. See Fed. R. Civ. P. (a)(1)(D), (b)(2). Western District of Washington Local
6 Rule 5(f) does not require certificate of service when an unrepresented party signs up to
7 participate in the ECF system. However, Plaintiffs have not signed up for the ECF system in this
8 case. As such, filing the Motion electronically does not suffice to properly serve Plaintiffs.

9 Because service was not properly executed the Court STRIKES Defendant's Motion
10 without prejudice. Additionally, the Court finds that Plaintiffs' Motion for a More Definite
11 Statement (Dkt. No. 48) is also stricken as MOOT because it was filed in response to the Motion
12 for Attorney's Fees.

13 The clerk is ordered to provide copies of this order to all counsel.

14 Dated October 2, 2023.

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16 Marsha J. Pechman
17 United States Senior District Judge
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